



U.S. Department  
of Transportation

**Pipeline and  
Hazardous Materials Safety  
Administration**

JAN 29 2007

400 Seventh Street, S.W.  
Washington, D.C. 20590

Mr. Gene Sanders  
Dangerous Goods Transportation Specialist  
Fisher Scientific International, Inc.  
2000 Park Lane  
Pittsburgh, Pennsylvania 15275

Ref. No.: 06-0207

Dear Mr. Sanders:

This responds to your letter dated September 11, 2006, regarding Special Provision "43" in § 172.102 as it applies to a material described as "Nitrocellulose membrane filters, 4.1, UN3270, PG II," under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180).

In accordance with Special Provision "43", nitrocellulose membrane filters each with a mass not exceeding 0.5 g are not subject to the HMR when contained individually in an article or a sealed packet. You ask if it would be a violation of the HMR to utilize Special Provision "43" to transport two strips totaling 0.096 g ( $2 \times 0.048 = 0.096$  g) of nitrocellulose membrane filters with each individual membrane filter having a mass of 0.048 g in each article or sealed packet.

The answer is yes. To utilize the exception, Special Provision "43" requires each nitrocellulose membrane filter under 0.5 gram to be individually or separately contained in an article or sealed packet. Therefore, you may not use the exception to transport two strips totaling 0.096 g ( $2 \times 0.048 = 0.096$  g) in a single article or sealed packet.

Currently, as provided under Special Provision "43", it does matter how many strips are in the article or sealed packet, although they are each under 0.5 gram (e.g, two strips of nitrocellulose membrane filters totaling 0.096 g ( $2 \times 0.048 = 0.096$  g)). We understand your concerns and will address this issue in a future rulemaking.

I hope this information is helpful. If we can be of further assistance.

Sincerely,

John A. Gale  
Chief, Standards Development  
Office of Hazardous Materials Standards



030207

172.102 SP43

Engrum  
3172-102.  
Special Provision 43  
Applicability  
06-0207

Drakeford, Carolyn <PHMSA>

**From:** Gorsky, Susan <PHMSA>  
**Sent:** Monday, September 11, 2006 5:13 PM  
**To:** Drakeford, Carolyn <PHMSA>  
**Subject:** FW: DOT special provision 43

Carolyn,

For the interp data base. Thanks.

Susan

---

**From:** Sanders, Gene [mailto:gene.sanders@fishersci.com]  
**Sent:** Fri 9/8/2006 5:19 PM  
**To:** Gorsky, Susan <PHMSA>  
**Cc:** Mayfield, John  
**Subject:** DOT special provision 43

Susan,

Fisher Scientific sells and distributes a product manufactured by another company that includes nitrocel ulose membranes. The product includes 2 membranes in each device, with each device sealed in its own foil pouch. Each strip weighs 0.048 grams, so the total amount in any device or pouch is 0.096 grams.

UN3270, Nitrocellulose membrane filters, has a special provision, 43, which may be advantageous to Fisher. The last line of the special provision reads "Nitrocellulose membrane filters covered by this entry, each with a mass not exceeding 0.5 g, are not subject to the requirements of this subchapter when contained individually in an article or a sealed packet."

One possible interpretation could be that having 2 strips in each article (and therefore 2 strips in each sealed packet) does not meet the requirement that strips be "contained individually". This seems to be the most literal interpretation.

A different interpretation could be that the 0.5 g maximum is meant to apply not just to a single strip, but to the tota amount of nitrocellulose in any one article or pouch. Certainly, from a safety perspective it would seem ridiculous to say that one 0.500 g strip is allowed, while 2 x 0.048 (= 0.096 g) strips are not. Or that a single strip of 0.096 g would be allowed, but cutting that strip in half would not be allowed.

So, I'm asking whether you think Fisher Scientific would be in violation of the regulations to use the latter interpretation, and to ship the product as "not subject to the requirements" of the hazardous materials regulations?

Thank you for your assistance.

Cheers,

Gene Sanders, DGSA  
Dangerous Goods Transportation Specialist  
Fisher Scientific International, Inc.  
2000 Park Lane  
Pittsburgh, Pa. 15275 USA

9/13/2006